IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9735 of 1995

For Approval and Signature:

HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BASKA SURFACTANTS PVT LTD & 1 - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR ABHISHEK MEHTA FOR M/S TRIVEDI & GUPTA for Petitioner(s) : 1,

MS DARSHANA PANDIT, ASSISTANT GOVERNMENT PLEADER for Respondent No.1- State.

NOTICE SERVED for Respondent(s) : 1 - 4.

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CORAM : HONOURABLE MS.JUSTICE H.N.DEVANI
Date : 09/09/2005

ORAL JUDGMENT

1 By way of this petition under Articles 226 and 227 of the Constitution of India, the petitioners have prayed for quashing and setting aside the order dated

31/3/1986 passed by the Deputy Secretary (Appeals) Revenue Department, Government of Gujarat and for restoration of the order dated 10.07.1981 passed by the Taluka Development Officer, Halol, District Panch Mahals.

2 Although the petitioners have made averments in support of the challenge to the impugned order (Annexure-A) it is not necessary to set out the facts in detail because the issue raised in the present petition is squarely covered by order dated 16/01/1985 passed by a Co-ordinate Bench in Special Civil Application No. 1651 of 1987 (*Indian Rayon Industries Limited and Another Vs. State of Gujarat*) and other connected petitions. Mr.Abhishek Mehta, learned Advocate for the petitioners has produced a photostat copy of order dated 16/01/1995 passed in Special Civil Application No. 1651 of 1987. After going through that order, this Court is of the view that the issue raised in this petition is covered by the decision of Special Civil Application No. 1651 of 1987. Ms.Darshana Pandit, learned Assistant Government Pleader is not in a position to point out anything to the contrary.

3 The only contention raised on behalf of the respondent authority is that the impugned order has been

passed on 31/03/1986 whereas the present petition has been filed in January,1995. Hence, there is a considerable delay in challenging the said order. In paragraph No.3.13(a) the petitioners have explained the reasons for the delay in challenging the said order. It is stated that after the purchase of the said land from the previous owner viz. Mr.V.M.Bhatt by a sale-deed dated 04.02.1992, the petitioners had approached the Talati of village Baska with a request for incorporating the petitioner's name in the Revenue Records as the owners of the lands in question. However, the Talati orally refused to do so saying that there was some order, as a result of which, he was not in a position to incorporate the petitioner company's name in the revenue records. It is stated that thereafter, after considerable efforts the petitioners could obtain copy of the impugned order. It is also stated that previous owner Mr.V.M.Bhatt had also not been heard before passing of the impugned order. No affidavit-in-reply controverting the aforesaid factual averments has been filed by the respondent authorities. Hence, this Court is satisfied that the delay in filing the present petition has been sufficiently explained by the petitioners.

4 In the aforesaid circumstances, this petition is allowed in terms of the order passed in Special Civil Application No.1651 of 1987 and other connected matters with the direction that the detailed reasons recorded in the order of the Co-ordinate Bench shall be read as part of this order. Rule is made absolute accordingly with no order as to costs.

(H.N.Devani, J)

m.m.bhatt